

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA) DOCKET NO. 3:12CR62-FDW
)
)
vs.)
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)
JOHN MOORE, JR.)

THIS MATTER IS BEFORE THE COURT on the government's Motion For A Court Ordered Tuberculosis Test (Document No. 41) filed by the government in this matter on January 6, 2015. Defendant is currently detained and has been ordered to undergo a competency examination while in the custody of the Bureau of Prisons. Defendant has refused the tuberculosis test required of all persons coming into the Bureau of Prisons. For the reasons stated below, after a careful review of the facts and law relevant to this matter, the motion will be granted.

Defendant is charged by Bill Of Indictment with possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5). On April 11, 2013, Defendant entered a guilty plea to the Bill of Indictment. On October 3, 2014, the government requested that the Court enter an Order for a psychiatric and psychological examination of Defendant to determine if he understands the nature and consequences of the proceedings against him and can assist in his defense pursuant to 18 U.S.C. § 4241(a) and (b). (Document No. 39). On October 6, 2014, this Court granted the government's motion and ordered Defendant be committed to the custody of the Attorney General for placement in a suitable facility for the purpose of a psychological or psychiatric examination of Defendant.

The Court, counsel for the government and counsel for Defendant were informed that

Defendant had not been transported to the Bureau of Prisons because he had refused to comply with the required tuberculosis test. Counsel for Defendant has advised Defendant to submit to the test, but Defendant still refuses.

The Bureau of Prisons has a compelling interest in stopping the spread of tuberculosis. The Court finds, based on the totality of the circumstances presented here, that requiring the tuberculosis test – even over Defendant’s objection – is appropriate.

IT IS, THEREFORE, ORDERED that the government’s Motion For A Court Ordered Tuberculosis Test (Document No. 41) is GRANTED.

IT IS FURTHER ORDERED that the U.S. Marshals transport Defendant to Charlotte-Mecklenburg Hospital Authority to be tested.

IT IS FURTHER ORDERED that Charlotte-Mecklenburg Hospital Authority conduct the tuberculosis test on the Defendant.

IT IS FURTHER ORDERED that the Clerk of Court shall provide a copy of this Order to the United States Marshal.

SO ORDERED.

Signed: January 7, 2015



Frank D. Whitney
Chief United States District Judge

